

Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of)	
)	
Applications for Consent to the Transfer of)	
Control of Licenses and Section 214)	CS Docket No. 00-30
Authorizations by Time Warner Inc. and America)	
Online, Inc., Transferors, to AOL Time Warner)	
Inc., Transferee)	
)	
Complaint of STIC.NET, LP Against AOL Time)	
Warner Inc Regarding High-Speed Internet)	
Access Service Merger Conditions)	

ORDER

Adopted: October 14, 2003

Released: October 14, 2003

By the Chief, Media Bureau

1. In a *Memorandum Opinion and Order* released January 22, 2001,¹ the Commission approved the merger of America Online, Inc and Time Warner, Inc., subject to certain conditions. The Commission's merger conditions included requirements regarding access by unaffiliated Internet service providers (ISPs) to the merged company's cable system, and procedures by which a complaint may be filed regarding Time Warner Inc.'s (Time Warner)² compliance with these requirements.³ On September 25, 2003, STIC.NET, LP (STIC.NET), an ISP, filed a complaint regarding AOL Time Warner's compliance with these Internet access requirements.⁴ Because STIC.NET failed to provide supporting documentation or affidavits to support its complaint, as required by the Commission's rules and the *Order*, the complaint is hereby dismissed without prejudice.⁵

2. STIC.NET's Complaint fails to comply with Section 1.720(c) of the Commission's rules. Section 1.720(c) of the Commission's rules requires that formal complaint pleadings contain facts that are supported by relevant documentation or affidavit.⁶ While STIC.NET did provide a reasonably detailed

¹ *Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations by Time Warner, Inc and America Online, Inc Transferors, to AOL Time Warner, Inc, Transferee*, 16 FCC Rcd 6547 (2001) (*Order*)

² AOL Time Warner Inc recently changed its corporate name to "Time Warner Inc." See AOL Time Warner News Release, "AOL Time Warner to Rename Company 'Time Warner'" at http://media.aoltimewarner.com/media/press_view.cfm?release_num=55253395, Sept 18, 2003.

³ *Order*, 16 FCC Rcd at 6600-03, ¶¶ 126-127

⁴ STIC.NET, LP Complaint Against AOL Time Warner Inc, CS Docket No 00-30, filed Sept 25, 2003 (Complaint)

⁵ The *Order* requires complainants to follow the general pleading rules found in Parts 1 and 76 of the Commission's rules. See *Order*, 16 FCC Rcd at 6602, ¶ 126

⁶ See 47 C.F.R. §1.720(c)

report describing the conduct that is the subject of its complaint, STIC NET made no attempt to provide supporting documentation or affidavits. The complaint, as filed, is not sufficient to make a reasoned analysis. STIC.NET did not explain why a more complete complaint was not submitted other than to note that certain information is subject to a non-disclosure agreement or has been provided to the Federal Trade Commission.⁷ The Commission has procedures for the handling of confidential filings, and the *Order* expressly forbade Time Warner from contractually preventing unaffiliated ISPs from disclosing to the Commission the terms of their contracts with Time Warner under the Commission's confidentiality procedures. For these reasons, we do not find STIC.NET's justifications compelling.⁸ In light of STIC.NET's failure to provide the information required by Section 1.720(c), its Complaint will be dismissed without prejudice. STIC.NET may re-file its complaint at a later date. If it re-files, STIC.NET should provide supporting documentation or affidavits with its filing.

3 Accordingly, **IT IS ORDERED**, pursuant to Sections 4(i) and (j), 214(a) and (c), 309, and 310(d) of the Communications Act of 1934 as amended, 47 U.S.C. §§ 154(i), 154(j), 214(a), 214(c), 309, 310(d), and Section 1.720(c) of the Commission's rules, 47 C.F.R. § 1.720(c), that the Complaint, filed by STIC.NET, LP **IS DISMISSED WITHOUT PREJUDICE**.

4. This action is taken pursuant to authority delegated by Section 0.283 of the Commission's rules, 47 C.F.R. § 0.283.

FEDERAL COMMUNICATIONS COMMISSION

W. Kenneth Ferree
Chief
Media Bureau

⁷ See Complaint at 9, 11-12.

⁸ See *Order*, 16 FCC Rcd at 6602, ¶ 126.